

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

EFD SPORTS, LLC

§

v.

§

CIVIL NO. 4:24-CV-87-SDJ

BALLY'S CORPORATION

§

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§

**REPLY TO DEFENDANT'S RESPONSE TO FILE MOTION FOR LEAVE TO FILE
PLAINTIFF'S THIRD AMENDED COMPLAINT**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, Plaintiff in the above entitled and numbered cause of action and files its Reply to Defendant's Response to Plaintiff's Motion for Leave to File Plaintiff's Third Amended Complaint, and would respectfully show unto the Court as follows:

I. REPLY

1.1 Defendant mistakenly states that Plaintiff's Second Amended Petition has not been filed in this case. Plaintiff's Second Amended Petition was filed on April 30, 2024, one day after the filing of Plaintiff's Motion for Leave filed as directed by the Court. Plaintiff takes this filing to mean that the Court approved the Motion for Leave and filed the Second Amended Petition into this case as live pleading in this case.

1.2 Defendant's Opposition to the Motion for Leave to file the Third Amended Petition does not address the issues in the Motion for Leave, but rather the substance of the Third Amended Petition itself. The substantive arguments in the Response are premature, or not ripe. The arguments are appropriate to attack the Third Amended Petition itself if Defendants so choose, but do not address the Motion for Leave to file.

1.3 Plaintiff received new evidence in the form of internal emails disclosed by Defendant that shed light on the basis for the new claims. Plaintiff sought to add parties within the deadline for same. Plaintiff sought leave to amend within the deadline for same. Defendant presents no arguments as to why the Third Amended Petition adding parties filed within all pertinent deadlines in the Scheduling Order should not be granted.

WHEREFORE PREMISES CONSIDERED, Plaintiff prays that the Court find that justice so requires this Court to GRANT Plaintiff's Motion for Leave to file Plaintiff's Third Amended Complaint and direct the filing of same.

Respectfully submitted,

/s/Donald M. Kaiser Jr.
Donald M. Kaiser Jr.
Texas State Bar No. 24025466
dkaiser@attorneysforbusiness.com

KAISER LEGAL SOLUTIONS, PLLC
5440 Harvest Hill Road
Suite 201
Dallas, Texas 75203
(214) 441-3000
(214) 441-3001 (fax)

COUNSEL FOR PLAINTIFF

CERTIFICATE OF SERVICE

This is to certify that, on August 6, 2024, a true and correct copy of this document has been served on counsel of record in accordance with the Federal Rules of Civil Procedure.

/s/Donald M. Kaiser Jr.
Donald M. Kaiser Jr.